

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

WILLIAM ADAMS,

Plaintiff,

vs.

CITY OF LINCOLN, JOSEPH  
VILLAMONTE, DANIEL DUFEK, and  
CAPITAL TOWING, INC., a Nebraska  
corporation,

Defendants.

**4:19CV3051**

**NOTICE OF  
SHOW CAUSE HEARING**

This matter is before the court upon *sua sponte* review of the court's docket and related proceedings.

This case was filed on May 23, 2019. The original defendants included the City of Lincoln and Jeffrey Sorensen. As of September 3, 2019, Plaintiff had failed to serve Defendant Sorensen. The court entered an order to show cause why the claims against Sorenson should not be dismissed for failure to timely serve defendant Sorensen and for want of prosecution. ([Filing No. 7](#)).

On the show cause deadline, Plaintiff filed a motion to amend the complaint. The proposed amended complaint no longer named Sorensen as a defendant. Instead, the defendants were the City of Lincoln, Joseph Villamonte, Daniel Dufek, and Capital Towing, Inc. The court granted the motion, and the amended complaint was filed on October 15, 2019. (Filing Nos. 8-10).

On January 16, 2020, the court entered an order to show cause why Plaintiff's claims against Capital Towing should not be dismissed for failure to serve defendant Capital Towing and for want of prosecution. ([Filing No. 15](#)). Plaintiff's counsel then requested a summons to serve Capital Towing.

Capital Towing was served on February 7, 2020. ([Filing No. 19](#)). It did not timely answer or respond. Plaintiff did not promptly move for default.

Trying to get the case moving, the court entered a show cause order for dismissal of Plaintiff's claims against Capital Towing. ([Filing No. 20](#)). Thereafter, at Plaintiff's counsel's request, a default was entered against Capital Towing on April 15, 2020. ([Filing No. 23](#)).

As of April 24, 2020, all parties who would be active in this litigation had entered an appearance. So, the court began the process of soliciting the parties' thoughts on case progression and entering a scheduling order.

The court's final scheduling order was entered on June 1, 2020. It set a status conference to be held on July 28, 2020 at 10:00 a.m. Defense counsel attended; Plaintiff's counsel did not. And since that date, Plaintiff's counsel has not contacted my chambers to explain his absence or to re-schedule.

Accordingly,

IT IS ORDERED:

1) A show cause hearing will be held before Cheryl R. Zwart, United States Magistrate Judge, in Courtroom 2, United States Courthouse, Lincoln, Nebraska at 1:30 p.m. on August 19, 2020, to discuss Plaintiff's counsel's failure to diligently prosecute this case, including but not limited to counsel's failure to attend the scheduled hearing on July 28, 2020.

2) Plaintiff's counsel shall appear in person; Defense counsel may appear in person or by telephone. If by telephone, on or before noon on August 18, 2020, contact Jeri Bierbower at [Jeri.Bierbower@ned.uscourts.gov](mailto:Jeri.Bierbower@ned.uscourts.gov) or at (402) 437-1905 for instructions on how to attend by telephone.

Dated this 4th day of August, 2020.

BY THE COURT:

s/ Cheryl R. Zwart  
United States Magistrate Judge